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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/276,056	03/25/1999	DARRYL P. BLACK	10360/014001	1593

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WITHROW & TERRANOVA, P.L.L.C.
P.O. BOX 1287
CARY, NC 27512

EXAMINER

FLEURANTIN, JEAN B

ART UNIT	PAPER NUMBER
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2172

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/276,056

Applicant(s)

BLACK ET AL.

Examiner

Jean B Fleurantin

Art Unit

2172

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 February 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 17,18.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Art Unit: 2172

DETAILED ACTION

Response to Amendment

1. Claims 1-23 are remained pending for examination.

Information Disclosure Statement

2. The references cited in Information Disclosure Statement, PTO-1449, have fully considered.

Response to Applicant' Remarks

3. Applicant's arguments filed on 02/12/03 with respect to claims 1-23 have been fully considered but, have been found persuasive only to the extent that the prior art of record does not specifically teach the limitations "transmitting the accounting records to the flow aggregate process." However, Bruins teaches such limitations.

In response to applicant's argument on page 16, a prima facie case of obvious of is established when the teachings from the prior art itself would appear to have suggested the claimed subject matter to a person of ordinary skill in the art. Once such a case is established, it is incumbent upon appellant to go forward with objective evidence of unobviousness. In re Fielder, 471 F.2d 640, 176 USPQ 300 (CCPA 1973).

Art Unit: 2172

Claim Rejections - 35 U.S.C. § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iddon et al. (U.S. Pat. No. 5,634,009) in view of Bruins et al. (U.S. Pat. No. 6,308,148) (“Iddon”), (“Bruins”).

As per claims 1, 2 and 18, Iddon teaches a method of transmitting accounting records in an accounting system that produces information pertaining network traffic flow (thus, receives and transmits packets in similar fashion to the network nodes; which is equivalent to network traffic flow)(see col. 9, lines 3-4) as claimed, comprises collecting data from a network device by a data collector associated with the network device and producing accounting records from the data (thus, a sufficient number of network nodes connected throughout a computer network adapted to collect network data; which is readable as collecting data from a network device by a data collector associated with the network device and producing accounting records from the data)(see col. 3, lines 64-66);

storing in the data collector the accounting records (thus, network nodes connected throughout a computer network adapted to collect network data; which is readable as storing in the data collector the accounting records)(see col. 3, lines 64-66). Further, in column 6, lines 18-19, Iddon teaches update routines are stored in the data collection module. But, Iddon does not explicitly

Art Unit: 2172

indicate transmitting the accounting records to the flow aggregation process; and the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. However, Bruins implicitly indicates based on the aggregated message flow information, accounting information pertaining to network usage for use in charging users of the network for their use, (see col. 7, lines 44-47). Further, in column 5, lines 12 through 15, Bruins teaches the display 260 application can record accounting information which can be used to charge users of the network 100 for their use. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Iddon and Bruins with transmitting the accounting records to the flow aggregation process; and the flow aggregation process that the flow aggregation process received the accounting records before discarding the accounting records sent to the flow aggregation process. This modification would allow the teachings of Iddon and Bruins to improve the accuracy and the reliability of the fault tolerance for network accounting architecture, and provide a method and system for monitoring information about network usage (see col. 2, lines 6-7).

As per claims 3-4, 9, 11-13 and 19, Iddon teaches the claimed subject matter except the claimed determining an error relating to the first flow aggregation process, and causing aggregate reports from the second flow aggregation process to be sent to the accounting module in place of the aggregate reports from the first flow aggregation process. However, Bruins teaches state information about the network 100 can be used to determine whether particular communication links 110 are congested, are heavily used, are lightly used or even inoperative, network administrators can use this

Art Unit: 2172

information to determine which communication links 110 require maintenance; and based on the aggregated message flow information, accounting information pertaining to network usage for use in charging users of the network for their use, (see cols. 5 and 7, lines 52-58 and 44-47). Further, in column 5, lines 12 through 15, Bruins teaches the display 260 application can record accounting information which can be used to charge users of the network 100 for their use. Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the teachings of Iddon and Bruins with determining an error relating to the first flow aggregation process, and causing aggregate reports from the second flow aggregation process to be sent to the accounting module in place of the aggregate reports from the first flow aggregation process. This modification would allow the teachings of Iddon and Bruins to improve the accuracy and the reliability of the fault tolerance for network accounting architecture, and provide a method and system for monitoring information about network usage (see col. 2, lines 6-7).

As per claims 5, 14 and 20, Iddon teaches a method as claimed wherein the data collector produces network accounting records (NARs) from collector data (thus, a sufficient number of network nodes connected throughout a computer network adapter to collect network data, which is readable as wherein the data collector produces network accounting records (NARs) from collector data)(see col. 3, lines 64-66).

As per claims 6, 15 and 21, Iddon teaches a method as claimed further comprises removing from a local store of the data collector the locally stored copies of the transferred NARs (thus, probe 13 analyzes each packet, i.e., the digital form residing in memory 15 to determine whether the packet

Art Unit: 2172

is intended for itself, for example another node may request certain information from probe 13, if a packet is targeted to probe 13, probe 13 will respond accordingly, i.e., like a normal node, if the packet is not intended for probe 13, i.e., the target address is not that of probe 13, probe 13 analyzes the packet in order to update certain tables within memory 15, for example RMON MIB, a MIB for SNMP, outlines what data should be accessible and how, as such if the probe 13 is used in an SNMP RMON MIB environment, RMON MIB will determine a minimum set of tables, which probe 13 must keep and manage; which is readable as removing from a local store of the data collector the locally stored copies of the transferred NARs (see col. 5, lines 28-56).

As per claims 7, 16 and 22, Iddon teaches a method as claimed wherein store and forward capabilities of the flow data collector provide fault tolerance at this accounting process level to ensure reliable data transfer (thus, network management typically entails determining which sections of a computer network are over- or under-utilized, in addition it includes detecting and locating network faults so that repairs and/or re-routing of the network can be made; which is readable as wherein store and forward capabilities of the flow data collector provide fault tolerance at this accounting process level to ensure reliable data transfer) (see col. 1, lines 24-28).

As per claims 8, 17 and 23, the limitations of claims 8, 17 and 23 are rejected in the analysis of claims 1 and 5, and these claims are rejected on that basis.

As per claim 10 the limitations of claim 10 are rejected in the analysis of claim 1, and this claim is rejected on that basis.

Art Unit: 2172

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bullard et al. US Pat. No. 6,405,251 relates to data collection systems. Ball et al. US Pat. No. 6,446,200 relates to processes to configure and manage networks. Cobb 'Preserving quality of service guarantees in spite of flow aggregation'- 10/13-16/1998, pages 90-97.

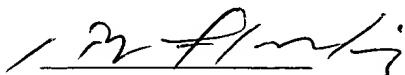
Conclusion

6. Any inquiry concerning this communication from examiner should be directed to Jean Bolte Fleurantin at (703) 308-6718. The examiner can normally be reached on Monday through Friday from 7:30 A.M. to 6:00 P.M.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, Mrs. KIM VU can be reached at (703) 305-8449. The FAX phone numbers for the Group 2100 Customer Service Center are: ***After Final (703) 746-7238, Official (703) 746-7239, and Non-Official (703) 746-7240.*** NOTE: Documents transmitted by facsimile will be entered as official documents on the file wrapper unless clearly marked "***DRAFT***".

Art Unit: 2172

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group 2100 Customer Service Center receptionist whose telephone numbers are (703) 306-5631, (703) 306-5632, (703) 306-5633.



Jean Bolte Fleurantin

April 29, 2003

JBF/



JEAN M. CORRIELUS
PRIMARY EXAMINER